IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 10576 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KESHAJI SWAROOPJI THAKORE

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 10576 of 2003

MS AMEE YAJNIK for Petitioner No. 1

MR RM CHAUHAN APP for Respondent No. 1

MR JITENDRA MALKAN for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 09/12/2004

ORAL JUDGEMENT

1. Learned Advocate for the petitioner is not

present. Learned Advocate Ms.Rajput for learned Advocate Mr. Jitendra Malkan original complainant and learned APP Mr. R.M. Chauhan for the respondent State were heard.

2. This petition came to be filed by the petitioner against an order passed by learned Judicial Magistrate First Class, Deodar, on 5.12.2003. It appears that present petitioner was accused in crime registered as I-26 of 2002 at Deodar Police Station for the charges under Sections 302 and 307 of the Indian Penal Code. Initially, it appears that Police filed a report under Section 169 of the Cr.P.C. in respect of the petitioner and vide order dated 6th of April, 2002, the said report under Section 169 of the Cr.P.C. was accepted by learned Judicial Magistrate, First Class, Deodar, and the petitioner came to be released. It appears that the said order of learned Judicial Magistrate, First Class, Deodar, came to be set aside by this Court in Special Criminal Application No. 922 of 2002 on 17th of February, 2003 and, therefore, learned Judicial Magistrate, First Class, Deodar, on 5th of December, 2003 passed further orders to take the petitioner in the custody in the said crime registered against him. Against this order of the learned Judicial Magistrate, First Class, Deodar, this petition came to be filed.

3. Initially, on 26th of December, 2003, this Court was pleased to issue Rule returnable on 5th of February, 2004 and was also pleased to direct that the petitioner shall present himself before the learned Judicial Magistrate, First Class, Deodar, on or before 16th of January, 2004 and file appropriate application for appropriate relief. It was also directed that till then the Investigating Officer shall not arrest the petitioner.

4. As submitted by learned Advocate Ms.Rajput for the original complainant in pursuance of the above order dated 26th of December, 2003 of this Court, the petitioner preferred an application before the learned Judicial Magistrate, First Class at Deodar. The said application came to be dismissed by learned Judicial Magistrate, First Class, Deodar and the petitioner was taken into judicial custody. Thereafter, the petitioner was released on bail by this Court as stated by learned Advocate for the complainant Ms. Rajput. So, at present, according to learned Advocate for the complainant, the petitioner is on bail in said crime registered against him at Deodar Police Station.

5. In view of above, this petition becomes

infructuous which is basically filed against the order passed by the leaned Judicial Magistrate, First Class, Deodar, on 5th of December, 2003 issuing warrant for arrest of the petitioner.

6. In the result, the petition stands disposed of as having become infructuous. Rule is discharged.

(J.R. Vora, J.)

p.n.nair